

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HARRY BOATNER, JR.)	
)	
Plaintiff,)	Civil Action No. 15-595
)	
v.)	
)	District Judge Arthur J. Schwab
ROBERT SALEM, Police Chief)	Magistrate Judge Lisa Pupo Lenihan
Of New Castle, PA,)	
CORPORAL SEELBAUGH,)	
JASON DIMUCCHIO, Director)	
Of Public Safety, Lawrence County Housing)	
Authority, JUSTIN WARREN, Patrolman,)	
AMANDA VENTURA, Patrolman, JOHN)	
MELNICK, Patrolman, ROBERT PICHE,)	ECF Nos. 38, 50, 65
Patrolman,)	
)	
Defendants.)	

MEMORANDUM ORDER

Plaintiff commenced this case by filing a Motion for Leave to Proceed in Forma Pauperis on May 7, 2015. (ECF No. 1.) Plaintiff's Motion was granted on May 11, 2015 and the Clerk was directed to file the Complaint. (ECF No. 2.) The case was referred to Magistrate Judge Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court.

The Magistrate Judge's Report and Recommendation (ECF No. 65) filed on December 18, 2015, recommended that the Motion for Summary Judgment filed by Defendant Jason DiMucchio (ECF No. 38) be granted. It was further recommended that the Motion for Summary Judgment filed by the Police Defendants John Melnik, Robert Piche, Robert Salem, Corporal Seelbaugh, Amanda Ventura, and Justin Warren (ECF No. 50) be denied without prejudice, and that the civil action be stayed and administratively closed until the underlying criminal action

against Plaintiff in the Court of Common Pleas of Lawrence County is concluded. Service was made on the pro se Plaintiff at his address of record, and on counsel of record by electronic mail. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Local Rule of Court 72.D.2, the parties had fourteen (14) days from the date of service to file objections to the Report and Recommendation. On January 4, 2016, Plaintiff filed an Appeal of Report and Recommendation which the Court has construed as his objections (ECF No. 66).

After review of the pleadings, documents in the case, and the Appeal of Report and Recommendation, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 6th day of January 2016, it is hereby **ORDERED** that the Motion for Summary Judgment filed by Defendant Jason DiMucchio (ECF No. 38) is **GRANTED** and that the Motion for Summary Judgment filed by the Police Defendants John Melnik, Robert Piche, Robert Salem, Corporal Seelbaugh, Amanda Ventura, and Justin Warren (ECF No. 50) is **DENIED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that the civil action is stayed and administratively closed until the underlying criminal action against Plaintiff in the Court of Common Pleas of Lawrence County (and any related appeal) is concluded. Thereafter, Plaintiff may move to reopen the case for good cause shown, and, if the case is reopened, the Police Defendants may re-file their Motion for Summary Judgment.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 65) of Magistrate Judge Lenihan, dated December 18, 2015, is adopted as the Opinion of the Court.

BY THE COURT

s/Arthur J. Schwab
ARTHUR J. SCHWAB
United States District Judge

cc: Harry Boatner, Jr.
111 S. Milton Street
New Castle, PA 16101-3593

All counsel of record
Via Electronic Mail